

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

JAMES E. McCLAIN                     )  
    Plaintiff,                         )  
                                       )  
v.                                     )  
                                       )  
STATE OF TENNESSEE, et al.         )  
    Defendants.                        )

No.     **3 07 1099**  
JUDGE HAYNES

M E M O R A N D U M

Plaintiff, James E. McClain, a pre-trial detainee at the Davidson County Criminal Justice Center in Nashville filed this pro se action under 42 U.S.C. § 1983 against the Defendants: State of Tennessee; Metro Nashville Public Defender's Office; Metro Nashville Police Department; Channel 5 Television Station in Nashville; the Metropolitan Nashville and Davidson County Government; the Tennessee Bureau of Investigation; Mickie Daugherty, a public defender in Davidson County; Seth Norman, a Criminal Court Judge in Nashville; the Nashville Bar Association and the Tennessee Bar Association; seeking damages and his release from custody.

Plaintiff's claim is that his attorney, Mickie Daugherty, has failed to provide him with the effective assistance of counsel. Plaintiff alleges that he has been in jail awaiting trial for fourteen (14) months. Plaintiff asserts claims that his continued confinement violates his constitutional rights.

To state a Section 1983 claim for an allegedly unconstitutional prosecution, conviction or confinement, the plaintiff must allege that the conviction or confinement has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a writ of habeas corpus. Heck v. Humphrey, 512 U.S. 477, 486-87 (1994).

Given his status as a pre-trial detainee, Plaintiff has not yet had an opportunity to test the validity of his confinement in either a state or federal court. Therefore, the Plaintiff's claims are not yet cognizable in a § 1983 action.

With his failure to state a claim upon which relief can be granted at this time, the Court is obliged to dismiss the Plaintiff's complaint *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.

  
WILLIAM J. HAYNES, JR.  
United States District Judge